General Assembly **Substitute Bill No. 218**

February Session, 2016

* SB00218PH 030816 *

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS FOR REVISIONS TO THE STATUTES REGARDING HUMAN IMMUNODEFICIENCY VIRUS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 19a-124 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) The Department of Public Health shall establish, within available appropriations, needle and syringe exchange programs **[**in the three cities having the highest total number of human immunodeficiency virus infections among injection drug users**]** to enhance health outcomes of people who inject drugs in any community impacted by the human immunodeficiency virus or hepatitis C. The department shall establish protocols in accordance with the provisions of subsection (b) of this section. The department may authorize **[**similar**]** programs, **[**in other areas of the state,**]** as determined by the commissioner, through local health departments or other local organizations.

(b) The programs shall: (1) Be incorporated into existing human immunodeficiency virus and hepatitis C prevention programs; **[**in the selected cities;**]** (2) provide for free and confidential exchanges of needles and syringes and (A) provide that program participants receive an equal number of needles and syringes for those returned;

and (B) provide that first-time applicants to the program receive an initial packet of **[**thirty**]** needles and syringes, educational material and a list of drug counseling services; **[**and**]** (3) offer education on **[**the transmission of**]** the human immunodeficiency virus, **[**and**]** hepatitis C and drug overdose prevention measures and assist program participants in obtaining drug treatment services; (4) provide referrals for substance abuse counseling or treatment; and (5) provide referrals for medical or mental health care.

(c) The department shall **[**establish requirements**]** require programs to include an evaluation component to monitor (1) **[**return rates of needles and syringes distributed**]** the number of syringes distributed and collected, (2) program participation rates, **[**and (3) the number of participants who are motivated to enter treatment as a result of the program and the status of their treatment**]** (3) the number of participants who are referred to treatment, and (4) the incidence of human immunodeficiency virus from injection drug use.

(d) Any organization conducting a needle and syringe exchange program shall submit a report evaluating the effectiveness of the program to the Department of Public Health.

Sec. 2. Section 19a-581 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

As used in this chapter except where the context otherwise requires:

(1) "Department" means the Department of Public Health;

(2) "Commissioner" means the Commissioner of Public Health;

(3) "AIDS" means acquired immune deficiency syndrome, as defined by the Centers for Disease Control of the United States Public Health Service;

(4) "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a

probable causative agent of AIDS;

(5) "HIV-related illness" means any illness that may result from or may be associated with HIV infection;

(6) "HIV-related test" means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or indicate the presence of HIV infection;

(7) "Protected individual" means a person who has been counseled regarding HIV infection, is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness;

(8) "Confidential HIV-related information" means any information pertaining to the protected individual or obtained pursuant to a release of confidential HIV-related information, concerning whether a person has been counseled regarding HIV infection, has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify a person as having one or more of such conditions, including information pertaining to such individual's partners;

(9) "Release of confidential HIV-related information" means a written authorization for disclosure of confidential HIV-related information which is signed by the protected individual or a person authorized to consent to health care for the individual and which is dated and specifies to whom disclosure is authorized, the purpose for such disclosure and the time period during which the release is to be effective. A general authorization for the release of medical or other information is not a release of confidential HIV-related information, unless such authorization specifically indicates its dual purpose as a general authorization and an authorization for the release of confidential HIV-related information and complies with the requirements of this subdivision;

(10) "Partner" means an identified spouse or sex partner of the

protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual;

(11) "Health facility" means an institution, as defined in section 19a-490, blood bank, blood center, sperm bank, organ or tissue bank, clinical laboratory or facility providing care or treatment to persons with psychiatric disabilities or persons with intellectual disability or a facility for the treatment of substance abuse;

(12) "Health care provider" means any physician, dentist, nurse, provider of services for persons with psychiatric disabilities or persons with intellectual disability or other person involved in providing medical, nursing, counseling, or other health care, substance abuse or mental health service, including such services associated with, or under contract to, a health maintenance organization or medical services plan;

(13) "Significant risk of transmission" means **[**sexual activity that involves**]** the transfer of one person's <u>blood,</u> semen, vaginal or cervical secretions to another person <u>through sexual activity</u> or sharing of needles during **[**intravenous**]** <u>injection</u> drug use. The department may further define significant risk of transmission in regulations adopted pursuant to section 19a-589;

(14) "Significant exposure" means a parenteral exposure such as a needlestick or cut, or mucous membrane exposure such as a splash to the eye or mouth, to blood or a cutaneous exposure involving large amounts of blood or prolonged contact with blood, especially when the exposed skin is chapped, abraded, or afflicted with dermatitis. The department may further define significant exposure in regulations adopted pursuant to section 19a-589;

(15) "Exposure evaluation group" means at least three impartial health care providers, at least one of whom shall be a physician, designated by the chief administrator of a health facility, correctional facility or other institution to determine if a health care or other worker

has been involved in a significant exposure. No member of the group shall be directly involved in the exposure. The department may further define exposure evaluation group in regulations adopted pursuant to section 19a-589; and

(16) "Community-based human immunodeficiency virus testing provider" means any individual or organization that provides human immunodeficiency virus testing services in a nonclinical or outreach setting for persons identified as being at risk of HIV infection.

Sec. 3. Subsection (d) of section 19a-582 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(d) The provisions of this section shall not apply to the performance of an HIV-related test:

(1) By licensed medical personnel when the subject is unable to grant or withhold consent and no other person is available who is authorized to consent to health care for the individual and the test results are needed for diagnostic purposes to provide appropriate urgent care, except that in such cases the counseling, referrals and notification of test results described in subsection (c) of this section shall be provided as soon as practical;

(2) By a health care provider or health facility in relation to the procuring, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical research or therapy, or for transplantation to individuals, provided if the test results are communicated to the subject, the counseling, referrals and notification of test results described in subsection (c) of this section shall be provided;

(3) For the purpose of research if the testing is performed in a manner by which the identity of the test subject is not known and is unable to be retrieved by the researcher;

(4) On a deceased person when such test is conducted to determine the cause or circumstances of death or for epidemiological purposes;

(5) In cases where a health care provider or other person, including volunteer emergency medical services, fire and public safety personnel, in the course of his occupational duties has had a significant exposure, provided the following criteria are met: (A) The worker is able to document significant exposure during performance of his occupation, (B) the worker completes an incident report within forty-eight hours of exposure identifying the parties to the exposure, witnesses, time, place and nature of the event, (C) the worker submits to a baseline HIV test within seventy-two hours of the exposure and is negative on that test, (D) the patient's or person's physician or, if the patient or person does not have a personal physician or if the patient's or person's physician is unavailable, another physician or health care provider has approached the patient or person and sought voluntary consent and the patient or person has refused to consent to testing, except in an exposure where the patient or person is deceased, (E) an exposure evaluation group determines that the criteria specified in subparagraphs (A), (B), (C), (D) and (F) of this subdivision are met and that the worker has a significant exposure to the blood of a patient or person and the patient or person, or the patient's or person's legal guardian, refuses to grant informed consent for an HIV test. If the patient or person is under the care or custody of the health facility, correctional facility or other institution and a sample of the patient's blood is available, said blood shall be tested. If no sample of blood is available, and the patient is under the care or custody of a health facility, correctional facility or other institution, the patient shall have a blood sample drawn at the health facility, correctional facility or other institution and tested. No member of the exposure evaluation group who determines that a worker has sustained a significant exposure and authorized the HIV testing of a patient or other person, nor the health facility, correctional facility or other institution, nor any person in a health facility or other institution who relies in good faith on the group's determination and performs that test shall have any liability as

a result of his action carried out pursuant to this section, unless such person acted in bad faith. If the patient or person is not under the care or custody of a health facility, correctional facility or other institution and a physician not directly involved in the exposure certifies in writing that the criteria specified in subparagraphs (A), (B), (C), (D) and (F) of this subdivision are met and that a significant exposure has occurred, the worker may seek a court order for testing pursuant to subdivision (8) of this subsection, (F) the worker would be able to take meaningful immediate action, if results are known, which could not otherwise be taken, as defined in regulations adopted pursuant to section 19a-589, (G) the fact that an HIV test was given as a result of an accidental exposure and the results of that test shall not appear in a patient's or person's medical record unless such test result is relevant to the medical care the person is receiving at that time in a health facility or correctional facility or other institution, (H) the counseling described in subsection (c) of this section shall be provided but the patient or person may choose not to be informed about the result of the test, and (I) the cost of the HIV test shall be borne by the employer of the potentially exposed worker;

(6) In facilities operated by the Department of Correction if the facility physician determines that testing is needed for diagnostic purposes, to determine the need for treatment or medical care specific to an HIV-related illness, including prophylactic treatment of HIV infection to prevent further progression of disease, provided no reasonable alternative exists that will achieve the same goal;

(7) In facilities operated by the Department of Correction if the facility physician and chief administrator of the facility determine that the behavior of the inmate poses a significant risk of transmission to another inmate or has resulted in a significant exposure of another inmate of the facility and no reasonable alternative exists that will achieve the same goal. No involuntary testing shall take place pursuant to subdivisions (6) and (7) of this subsection until reasonable effort has been made to secure informed consent. When testing

without consent takes place pursuant to subdivisions (6) and (7) of this subsection, the counseling referrals and notification of test results described in subsection (c) of this section shall, nonetheless be provided;

(8) Under a court order which is issued in compliance with the following provisions: (A) No court of this state shall issue such order unless the court finds a clear and imminent danger to the public health or the health of a person and that the person has demonstrated a compelling need for the HIV-related test result which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for a test result against the privacy interests of the test subject and the public interest which may be disserved by involuntary testing, (B) pleadings pertaining to the request for an involuntary test shall substitute a pseudonym for the true name of the subject to be tested. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court, (C) before granting any such order, the court shall provide the individual on whom a test result is being sought with notice and a reasonable opportunity to participate in the proceeding if he is not already a party, (D) court proceedings as to involuntary testing shall be conducted in camera unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;

(9) When the test is conducted by any life or health insurer or health care center for purposes of assessing a person's fitness for insurance coverage offered by such insurer or health care center; **[**or**]**

(10) When the test is subsequent to a prior confirmed test and the subsequent test is part of a series of repeated testing for the purposes of medical monitoring and treatment, provided (A) the patient has previously given general consent that includes HIV-related tests, (B) the patient, after consultation with the health care provider, has declined reiteration of the general consent, counseling and education

requirements of this section, and (C) a notation to that effect has been entered into the patient's medical record; or

(11) By a community-based human immunodeficiency virus testing provider when such provider has received and documented verbal consent to perform the test from the subject of the test or the person authorized to consent for health care for the subject of the test.

Sec. 4. Subdivision (7) of subsection (a) of section 19a-583 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(7) A health care provider or other person in cases where such provider or person in the course of his occupational duties has had a significant exposure to HIV infection, provided the following criteria are met: (A) The worker is able to document significant exposure during performance of his occupation, (B) the worker completes an incident report within forty-eight hours of exposure, identifying the parties to the exposure, witnesses, time, place and nature of the event, (C) the worker submits to a baseline HIV test within seventy-two hours of the exposure and is negative on that test for the presence of the **[**AIDS**]** human immunodeficiency virus, (D) the patient's or person's physician or, if the patient or person does not have a personal physician or if the patient's or person's physician is unavailable, another physician or health care provider has approached the patient or person and sought voluntary consent to disclosure and the patient or person refuses to consent to disclosure, except in an exposure where the patient or person is deceased, (E) the worker would be able to take meaningful immediate action as defined in regulations adopted pursuant to section 19a-589 which could not otherwise be taken, (F) an exposure evaluation group determines that the criteria specified in subparagraphs (A), (B), (C), (D) and (E) of this subdivision are met and that a worker has a significant exposure to the blood of a patient or person and the patient or person or the patient's or person's legal guardian refuses to consent to release of the information. No member of the exposure evaluation group who determines that a worker has

sustained a significant exposure and authorizes the disclosure of confidential HIV-related information nor the health facility, correctional facility or other institution nor any person in a health facility, correctional facility or other institution who relies in good faith on the group's determination and discloses the result shall have any liability as a result of his action carried out under this section, unless such persons acted in bad faith. If the information is not held by a health facility, correctional facility or other institution, a physician not directly involved in the exposure has certified in writing that the criteria specified in subparagraphs (A), (B), (C), (D) and (E) of this subdivision are met and that a significant exposure has occurred;

Sec. 5. Section 19a-593 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) Each health care provider giving prenatal care to pregnant women in this state shall inform her, or ascertain from the woman's medical record that such information has already been provided to her, that HIV testing is a part of routine prenatal care and shall inform her of the health benefits to herself and her newborn of being tested for HIV infection. Such information shall be conveyed along with the counseling required by section 19a-582, as amended by this act. The health care provider shall inform the patient that HIV-related information is confidential pursuant to section 19a-583, as amended by this act. If the patient provides informed consent to an HIV-related test consistent with section 19a-582, as amended by this act, the health care provider responsible for HIV counseling under this section shall perform or arrange to have performed an HIV-related test and document the test result in the medical record.

(b) If, during the current pregnancy, an HIV-related test has not been documented in the patient's medical record at admission for delivery of the baby, then the health care provider responsible for the patient's care shall inform the pregnant woman as required under subsection (a) of this section and shall also inform her of the health benefits to herself and her newborn of being tested for HIV infection

either before delivery or within twenty-four hours after delivery and, in the absence of specific written objection, shall cause such test to be administered.

(c) Any health care provider who administers an HIV-related test to a newborn under the provisions of this section, section 19a-55 or section 19a-90, shall report the results of such test to the mother of such newborn before the mother leaves the hospital or not later than forty-eight hours after the birth of such newborn, whichever is sooner. Such provider shall (1) refer any woman whose newborn tests positive for HIV infection to an human immunodeficiency virus case manager and an appropriate health care provider, and (2) provide such woman with a list of support services for persons with HIV infection and AIDS.

Sec. 6. Sections 19a-54a, 19a-121, 19a-124a and 19a-594 of the general statutes are repealed. (*Effective October 1, 2016*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2016*	19a-124
Sec. 2	*October 1, 2016*	19a-581
Sec. 3	*October 1, 2016*	19a-582(d)
Sec. 4	*October 1, 2016*	19a-583(a)(7)
Sec. 5	*October 1, 2016*	19a-593
Sec. 6	*October 1, 2016*	Repealer section

PH *Joint Favorable Subst.*